



Wes Moore | Governor
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DATE: March 12, 2024
BILL NO: House Bill 1508
BILL TITLE: Department of Commerce – Employer Tax Credit Programs – Alterations and Establishment
COMMITTEE: House Ways and Means
POSITION: Support with amendment

The Maryland Department of Commerce (Commerce) supports House Bill 1508 – Department of Commerce – Employer Tax Credit Programs – Alterations and Establishment with amendment.

Bill Summary:

House Bill 1508 sunsets the One Maryland Tax Credit program and the Job Creation Tax Credit (JCTC) program and replaces them with the Maryland Jobs Development Credit (MJDC). The legislation also replaces the More Jobs for Marylanders Tax Credit (MJM) program which is scheduled to begin to sunset for new enrollments June 1, 2024 with the MJDC. House Bill 1508 establishes an effective date for MJDC of October 1, 2024, and a termination date for the two existing programs of January 1, 2025.

Background:

Commerce currently administers three tax incentives largely focused on incentivizing job creation: the JCTC, MJM and the One Maryland Tax Credit. Three programs with different requirements and benefits are confusing for businesses to navigate. Additionally, given low activity levels recently in JCTC and One Maryland, as well as the approaching phase out of MJM, the timing is optimal to consolidate and streamline these programs.

The Job Creation Tax Credit was enacted in 1996. Since that time the program has been reformed slightly. The most recent and significant alteration was Chapter 22 of the 2021 Special Session which altered the definition of a “qualified position” for the purposes of JCTC and placed additional requirements on the jobs in order to be eligible for benefits.

The One Maryland Tax Credit was enacted in 1999. There have been some reforms made to the program in that time, most recently CHs 583/584, Acts of 2018 established a tiered structure for the program based on job creation thresholds, altered and renamed the county eligibility requirements to define Tier 1 and Tier 2 jurisdictions, and altered additional program details and requirements.

The More Jobs for Marylanders Tax Credit was enacted in 2017 through CH 149, Acts of 2017. It was expanded in 2019 through CH 211 to include Opportunity Zones in Tier 1 areas and make non-manufacturing jobs within Opportunity Zones eligible for tax incentives if they meet certain requirements. CH 136, Acts of 2022 extended the sunset on the program to June 1, 2024 and altered the program for those businesses that enrolled on or after June 1, 2022.

Rationale:

The Maryland Jobs Development Credit (MJDC) will offer more clarity for the business community, while still retaining flexibility for Commerce to structure incentive packages to attract new businesses and assist existing Maryland businesses with large job creation projects.

The expected outcomes of this legislation are the following:

- More clarity, certainty for prospects
- Effective tools for rural areas
- Incentives for young, growing companies
- Tax credit access across the State for significant projects

The MJDC will utilize the existing tiered county system for classifying Maryland’s jurisdictions. Businesses located in Tier 1 jurisdictions that create 10 or more jobs and businesses located in Tier 2 counties that create 20 or more jobs will receive an income tax credit in the amount of 5% of the wages paid to employees in qualified positions during the taxable year. Should the business invest at least \$75,000,000 in capital expenditures in the qualified project the credit increases to 6%, and to 7% should the business’ capital expenditures total \$150,000,000 or more. Companies in both tiers receive tax benefits for three years, as long as all job creation conditions are met. This tax credit is refundable, meaning that companies with no income tax liability will still receive the benefit. Benefits must be claimed when they are awarded and cannot be deferred.

Tier System: MJDC will utilize the existing Tier definitions, and does not allow for additional designations as a Tier 1 county. Economic Development Article 1-101 defines the tiers as:

“Tier I county” means a county with:

- (i) an average rate of unemployment for the most recent 24–month period for which data are available that exceeds 150% of the average rate of unemployment for the State during that period;
- (ii) an average rate of unemployment for the most recent 24–month period for which data are available that exceeds the average rate of unemployment for the State by at least 2 percentage points; or
- (iii) a median household income for the most recent 24–month period for which data are available that is equal to or less than 75% of the median household income for the State during that period.

“Tier I county” includes a county that:

- (i) no longer meets any of the criteria stated in paragraph (1) of this subsection; but
- (ii) has met at least one of the criteria at some time during the preceding 24–month period.

The following counties are currently Tier 1: Allegany, Baltimore City, Caroline, Dorchester, Garrett, Kent, Somerset, Washington, Wicomico, Worcester.

Maximum project benefits: Except for High Impact Projects, no unique project can receive more than \$1 million in tax credits, no matter the tier level of the County that the company is located in. A company may be allowed to have more than one unique project, but can only have one unique project per year per establishment.

High Impact Projects: The Secretary may designate certain projects throughout the State as “high-impact” Tier I projects. These projects will have a substantial effect on the State and local economy, result in the creation of a significant number of jobs for the region in which the project is located, and will also be accompanied by a significant amount of capital expenditures. The actual number of jobs created, and capital expended can vary depending on the nature and location of the high impact project. Benefits are negotiated. High impact projects are exempt from the \$1 million cap imposed on other projects. Only three high impact projects may be awarded per year.

The Maryland Department of Commerce is committed to the Moore-Miller Administration’s goal of creating a more competitive Maryland and growing our State’s economy. House Bill 1508 is a step toward improving our State’s competitiveness when it comes to economic development, and especially in Maryland’s ability to attract new businesses and jobs to the State. With the impending sunset of the More Jobs for Marylanders Tax Credit Program, a program is needed to fill this gap now. Commerce believes that House Bill 1508 creates a program that will correct some of the criticism received for MJM, while also ensuring that Maryland remains in consideration for new business activity and business growth – allowing the Department to continue our work in growing the State’s economy.

Commerce is grateful for the partnership we have had with members of this Committee and other legislators in working on tax credit programs in the past, as well as the work we have done so far on this legislation. We brought this proposal knowing it was a work in progress with the hope and expectation that the members of this Committee would be willing to work through some of the details with us. We are including attached to this testimony the results of some of those conversations in an initial amendment, but we anticipate more to come and we look forward to continuing those conversations.

Commerce respectfully requests a favorable report with amendment on House Bill 1508.

AMENDMENTS TO HOUSE BILL 1508
(First Reading File Bill)

AMENDMENT NO.1

On page 4, strike lines 1 through 5, inclusively, and substitute:

- (II) PAYS AT LEAST:**
 - 1. FOR AN EMPLOYEE CLASSIFICATION FOR WHICH THERE IS A PREVAILING WAGE RATE, AS DEFINED UNDER §17-201 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE PREVAILING WAGE; OR**
 - 2. FOR ANY OTHER EMPLOYEE CLASSIFICATION, 150% OF THE STATE MINIMUM WAGE;**
- (III) IS LOCATED IN THE STATE;**
- (IV) PROVIDES CAREER ADVANCEMENT TRAINING, CONTINUING EDUCATION, OR OTHER CAREER ADVANCEMENT OPPORTUNITIES;**
- (V) AFFORDS THE EMPLOYEE THE RIGHT TO COLLECTIVELY BARGAIN FOR WAGES AND BENEFITS;**
- (VI) PROVIDES FAIR SCHEDULING AND PAID LEAVE;**
- (VII) IS CONSIDERED COVERED EMPLOYMENT FOR THE PURPOSES OF UNEMPLOYMENT INSURANCE BENEFITS IN ACCORDANCE WITH TITLE 8 OF THE LABOR AND EMPLOYMENT ARTICLE;**
- (VIII) ENTITLES THE EMPLOYEE TO WORKERS' COMPENSATION BENEFITS IN ACCORDANCE WITH TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE;**
- (IX) OFFERS AN EMPLOYER-PROVIDED HEALTH INSURANCE PLAN WITH MONTHLY PREMIUMS THAT DO NOT EXCEED 8.5% OF THE EMPLOYEE'S NET MONTHLY EARNINGS;**
- (X) OFFERS RETIREMENT BENEFITS;**
- (XI) IS NEWLY CREATED AS A RESULT OF THE ESTABLISHMENT OR EXPANSION OF A BUSINESS FACILITY IN A SINGLE LOCATION IN THE STATE;**
AND
- (XII) IS FILLED.**

Explanation: These amendments incorporate additional requirements for a position to be considered qualified and therefore eligible to receive a tax credit.

Appendix: Credit Comparisons

Factor	JCTC	More Jobs for Marylanders	One Maryland	Tier Tax Credit
Job Creation Thresholds	Yes, minimum of 25 jobs inside a PFA, 10 if (1) annual average employment less than 75,000 or (2) median household income less than two-thirds of the statewide median household income and 60 outside	Yes, Manufacturer: 10 jobs in Tier 1 20 jobs in Tier 2 Non-Manufacturer 10 jobs and be in an Opportunity Zone.	Yes, minimum of 10 jobs to claim capital expenditure credits Have at least \$500,000 of eligible costs	Yes, minimum of 10 jobs in Tier 1 jurisdictions and 20 jobs in Tier 2
Capital Expenditure Requirement	None	None	Yes	None, but value of credit increases for projects with significant capital expenditures
Job Credit Value	Maximum of \$3,000 (if a veteran \$4,000), or \$5,000 (if a veteran \$6,000) within revitalization areas for one year	4.75% of wages	Minimum job creation required to claim capital expenditure tax credits	Base: 5% of wages paid to employees in qualified positions 6% if the project includes at least \$75,000,000 in capital expenditures 7% if the project includes at least \$150,000,000 in capital expenditures
Job Credit Timeframe	One year	Ten years	One year	Three years
Project Cap	\$1 million per credit year per facility	None	\$500 K minimum, \$5 million max, plus up to \$500 K in start-up costs	\$1 million per project per establishment per credit year

Reimbursable	No, unused credits carry forward for 5 years	Yes	Credit may be carried forward in the first four years, and becomes refundable starting in year 5. Amount refundable each year is the annual Maryland withholding of the qualified positions.	Yes, must be used in year awarded
Job Creation Time Period	24 months	12 months	24 months	12 months
Job Retention Requirement	Business must retain its qualified positions for at least 3 years after credit year. Credit is subject to recapture if number of qualified positions falls more than 5% below the average number of qualified positions that existed during the credit year	Business must retain the number of qualified positions that it was certified for during its first benefit year, or be removed from the program.	Up to 14 years	36 months
Minimum Salary Requirement	For an employee classification for which there is a prevailing wage rate, the prevailing wage, or 150% of State Minimum Wage	150% of the State minimum wage; non-manufacturers must pay \$50,000 annually	150% of Federal Minimum Wage	150% of State Minimum Wage
Availability	All jurisdictions	All jurisdictions	Ten jurisdictions only	All jurisdictions
High Impact Projects	N/A	N/A	N/A	Negotiated benefits, no cap; up to 3 per year